

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

MICHAEL STOKES

Plaintiffs,

- against -

DAVIC INCORPORATED

Defendant.

Case No. 4:19-cv-05743 (YGR)

Judge: Hon. Yvonne Gonzalez  
Rogers

Date Filed: September 12, 2019

Trial Date: Not yet set

**RESPONSE TO ORDER TO SHOW CAUSE**

I, RICHARD P. LIEBOWITZ, hereby swear under the penalty of perjury that the following is true and correct to the best of my personal knowledge:

1. I submit this declaration in response to the Order to Show Cause dated November 22, 2019 (the "November 22 OSC") entered by the Honorable Yvonne Gonzalez Rogers.

2. I am an attorney licensed to practice law in the State of New York and the founding member and principal of Liebowitz Law Firm, PLLC (the "Firm"), which is headquartered in Valley Stream, New York. The Firm specializes in enforcing the rights of copyright holders against media companies and other outfits which expropriate the intellectual property rights of authors and original creators.

1           3.       Since January 2016, the Firm has filed more than 2000 infringement lawsuits  
2 in federal courts of various jurisdictions in an effort to vindicate the public interest and  
3 enforce the constitutional and statutory rights of copyright holders. This volume of cases  
4 unfortunately reflects how widespread and systemic the infringement of the copyright  
5 rights of photographers and artists (among whom our clients are just a small number) is  
6 throughout the United States.

7  
8           4.       Copyright infringement cases like the ones brought by our Firm on behalf of  
9 individual copyright holders are extremely important and do more than compensate  
10 victims. They secure intellectual property rights from widespread invasion by large  
11 corporations, maintain order in society, and promote the Progress of the Sciences and the  
12 useful Arts. *See, e.g., Crown Awards, Inc. v. Disc. Trophy & Co.*, 564 F. Supp. 2d 290, 295  
13 (S.D.N.Y. 2008), *aff'd*, 326 F. App'x 575 (2d Cir. 2009) (“The Copyright Act’s principal  
14 purpose is to encourage the origination of creative works by attaching enforceable rights  
15 to them” and noting *that* meritorious claims “help demarcate the boundaries of copyright  
16 law . . . as clearly as possible in order to maximize the public exposure to valuable works.”)  
17 (internal quotations and citations omitted); *Apple Computer, Inc. v. Franklin Computer*  
18 *Corp.*, 714 F.2d 1240, 1255 (3d Cir. 1983) (public interest can only be served by upholding  
19 copyright protections, thus preventing misappropriation of skills, creative energies, and  
20 resources invested in protected work); *Walt Disney Co. v. Best*, No. 88 Civ. 1595(SWK),  
21 1990 WL 144209, at \*4 (S.D.N.Y. Sept. 26, 1990) (one of the primary purposes of the  
22 Copyright Act is to “deter future infringements”); *Energy Intelligence Grp., Inc. v. Kayne*  
23 *Anderson Capital Advisors, LP*, No. CV H-14-1903, 2018 WL 2048896, at \*12 (S.D. Tex. May  
24 2, 2018) (“The protection of copyrights is a vindication of the public interest, and the  
25 statutory penalty for copyright infringement is intended not just to compensate the  
26  
27  
28

1 copyright owner, but to deter Kayne and others like them from committing copyright  
2 infringement.”); 3 Nimmer § 14.06[A], at 14–80.

3 5. Copyright infringement of photographs on-line has become a national  
4 epidemic. Unfortunately, the Northern District of California is not immune, as there are  
5 many companies located in this District which violate the rights of copyright holders. In  
6 this District, I have served as counsel *pro hac vice* for copyright holders in twenty-two  
7 actions, which is an infinitesimal fraction of the infringement cases filed by the Firm.  
8

9 6. I do not reside in California nor am I regularly employed in California.

10 7. By the November 22 OSC, the Court questioned whether I am “regularly  
11 engaged in the practice of law in the State of California” as a result of having filed twenty-  
12 two cases in the last four months. Respectfully, I do not agree that these recent filings  
13 establish that I am regularly engaged in the practice of law in this District. Considering the  
14 large volume of cases the Firm files nationwide, twenty-two cases filed within four months  
15 is actually quite *infrequent*.  
16

17 8. I note for the Court that the Firm did not file any cases in this District prior  
18 to August 2019. The recent spate of filings has been somewhat of an anomaly where the  
19 Firm has had multiple clients whose rights were infringed by defendants in this District.  
20 Because of the federal venue rules and to avoid protracted and expensive motion practice  
21 regarding venue if we were to have filed in the districts where the plaintiffs reside, the  
22 Firm filed the recent cases in the Northern District.  
23

24 9. The frequency with which our Firm files cases is not to be measured against  
25 the frequency with which, for example, Anti-Trust cases are filed. The recent infringement  
26 cases we filed are straightforward cases usually involving infringement of one or a small  
27 number of works. We further note that several of the cases we recently filed already have  
28

1 been resolved. The Court should therefore take into consideration the nature and type of  
2 actions being filed.

3 10. The Local Rules do not specify the actual number of cases that may be filed  
4 in any given time *pro hac vice* before an attorney is deemed to be “regularly engaged in the  
5 practice of law in California.” I therefore submit it would be inequitable to strike my prior  
6 *pro hac vice* admissions or refuse to accept any future motions to appear *pro hac vice*. This  
7 is especially true since striking the *pro hac vice* admissions in the pending cases or barring  
8 future *pro hac vice* admissions would be greatly prejudicial to the Firm’s clients, who may  
9 not be able to find representation to vindicate their rights if the Firm cannot represent  
10 them.  
11

12 11. If the Northern District revises the Local Rules or if this Court issues an  
13 order to provide a more specific definition of what it means to “regularly practice law in  
14 the State of California,” I would fully and faithfully comply with such Rules. But as it  
15 stands, there are no fixed parameters or limitations on the number of cases that may be  
16 filed in a given time period.  
17

18 12. Accordingly, I respectfully request that the Court decline to strike my prior  
19 *pro hac vice* admissions or refuse to accept any future motions to appear *pro hac vice*.  
20

21 Dated: Valley Stream, New York  
22 December 13, 2019

23 LIEBOWITZ LAW FIRM, PLLC

24 By: /s/richardliebowitz/

25 Richard Liebowitz (RL1234)  
(Admitted Pro Hac Vice)

26 11 Sunrise Plaza, Suite 305

27 Valley Stream, NY 11580

28 Tel: (516) 233-1660

rl@LiebowitzLawFirm.com

Gregory P. Goonan (Cal Bar # 119821)  
THE AFFINITY LAW GROUP  
5755 Oberlin Drive, Suite 200  
San Diego, CA 92121  
Telephone: (858) 412-4296  
Facsimile: (619) 243-0088  
Email: [ggoonan@affinity-law.com](mailto:ggoonan@affinity-law.com)

*Attorneys for Plaintiffs*